

This record is a partial extract of the original cable. The full text of the original cable is not available.

C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 002827

SIPDIS

E.O. 12958: DECL: 11/04/2013

TAGS: [PGOV](#) [PREL](#) [EAID](#) [PINR](#) [GT](#) [OAS](#)

SUBJECT: IN PORTILLO'S ABSENCE, ELECTION HOLIDAY LAW
CAUSING GROWING FRICTION

REF: GUATEMALA 2796

Classified By: PolCouns David Lindwall for reason 1.5 (b) and (d).

11. (C) Summary: President Portillo traveled to Panama without vetoing the controversial election holiday bill (reftel), and opposition to the legislation has taken on a fever pitch. The Supreme Electoral Tribunal called on Portillo (who returns on the afternoon of November 4) to veto the law because of the impediments it creates to the election process. The OAS and EU observation missions, several of the domestic observation efforts and we have issued public statements urging Portillo to veto the law. Opposition candidates are calling openly for civil disobedience. FRG legislative leaders met with the Ambassador late on November 3 to argue that the law simply needed to be "clarified" by an executive decree, but the Ambassador urged them to weigh-in with the Executive to veto the bill as it is already creating confusion with voters and raising political tensions on the eve of elections. Portillo assured us through his Foreign Minister that he would veto the bill if a compromise could not be reached. With public pressure growing, we expect him to address the issue publicly on his return to the country. End summary.

12. (C) Opposition to the recently passed election holiday bill (reftel) is creating an escalation in political tensions as sectors of the opposition and civil society begin to realize the impact it could have on discouraging voters. Many also see this as another in a long series of attempts by the FRG to manipulate the elections, and they are determined that this is where they will hold the line. The OAS Election Observation Mission, joined by two domestic missions, held a press conference on November 2 calling on President Portillo to veto the bill. They argued that the law would create serious impediments to the electoral process by discouraging people from traveling. The Supreme Electoral Tribunal (TSE) held a press conference on November 3 also calling on Portillo to veto the bill, saying that the law forbid the TSE from working on election day and threatened penalties for providers of support services to the TSE.

13. (C) The Ambassador met with the legislative leadership of the FRG on the evening of November 3 at their request to discuss the bill. The FRG was represented by Majority Leader Aristides Crespo, First Vice President of Congress Zury Rios, FRG Vice Presidential candidate Edin Barrientos, Minister of Finance Eduardo Weymann and FRG legal representative Jorge Arevalo. The FRG leaders argued that the TSE was biased against them, that the domestic observation mission was partial and under the influence of their arch-enemy Frank Larue, that the Human Rights Ombudsman was in league with their critics, and that the private sector was determined to keep their laborers (who are largely FRG supporters, according to the FRG) from voting by not letting them return to their distant homes to vote on election day. The FRG leaders said that they were not going to protest the TSE partiality against them, but were determined to force landowners to let migrant workers go home to vote. That was why they passed the election holiday law, and that is why they stand by it. In response to our earlier appeals to them for reconsideration (reftel), they were proposing an Executive Decree "clarifying" what productive work could be done over the three-day holidays, and it would include letting TSE members work, keeping hotels and gas stations open and authorizing journalists to work.

14. (C) The Ambassador told them that the USG shares their concern that all laborers be allowed to vote. He said, however, that the law, even with the amendment they were proposing, would continue to create confusion and was more likely to discourage voting and unnecessarily stoke the political confrontation only days before the election. He urged the FRG leaders to seek ways to diminish tensions in these closing days of the campaign, and said that we thought the only way to address the current impasse was for President Portillo to veto this legislation, and for Congress to draft a new law before the second round.

15. (C) On November 4, the official gazette published Executive Decree 700-2003 "clarifying" the Labor Code's definition of essential services, expanding the categories contained in the election holiday bill (still not signed and published) to include electric and water services, journalism, gas stations, hotels and employees of the TSE.

The "clarification" (when many sectors were expecting a presidential veto) further fueled rising political tensions. The private sector organization CACIF held a press conference to denounce the holiday law as "another example of FRG fraud." The major opposition parties, which had earlier called for civil disobedience against the law, have called a press conference for the afternoon of November 4.

16. (U) The Embassy released a press statement on the morning of November 4 calling on employers to ensure that their employees are able to go home to vote, and calling on the government to veto the law. The Embassy press statement follows:

"Declaration on the Election Holiday Law: The United States Embassy wishes to affirm publicly our view, which we have been expressing privately to the Government of Guatemala since Saturday. A fundamental change in the rules under which elections are being carried out so close to election day can only have the effect of undermining public confidence. We do not think a unilateral clarification of the law would be sufficient to restore public confidence. Therefore, we respectfully call on the President to veto this legislation. We believe such a veto imposes a moral obligation on all employers to take extraordinary steps to ensure all employees are able to exercise their right to vote. We call on all national and international observer missions to verify that there has been no impediment to the right to vote."

17. (C) GANA Vice Presidential candidate Eduardo Stein phoned the Ambassador on November 4 to report that our statement had just been read aloud at an (OAS-sponsored) Forum of Political Parties, to general relief and approbation. Stein could not have been more profuse in his thanks.

18. (C) President Portillo is scheduled to return from Panama on the afternoon of November 4. He assured us (through Foreign Minister Gutierrez) and similarly assured a visiting delegation from the Robert Kennedy Center that he would veto the law if agreement could not be reached to reform it. The President of the Supreme Electoral Tribunal is to meet with Portillo on the afternoon of November 4 to press for a presidential veto.

19. (C) Comment: With only five days left before national elections, the flap over the election holiday law has generated renewed tensions and fears of bad behavior by the FRG on election day (the FRG leaders, in the meeting with the Ambassador, again pledged to respect the results and to behave peacefully during the elections). We expect Portillo to veto the law, but the debate has already taken a toll on confidence in the electoral process.

HAMILTON